

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
CATLIN INSURANCE COMPANY, FPG	:	
CLINTON ACQUISITION, LLC, FORTIS	:	
PROPERTY GROUP LLC, and WONDER	:	
WORKS CONSTRUCTION CORP.,	:	23-CV-5355 (VSB)
	:	
Plaintiffs,	:	<u>ORDER</u>
	:	
-against-	:	
	:	
SENTINEL INSURANCE COMPANY,	:	
LTD. and CONTACT PLUS ELECTRICAL	:	
CORP.,	:	
	:	
Defendants.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

On June 23, 2023, this action was removed to federal court on the basis of diversity jurisdiction. (Doc. 1.) On October 30, 2023, Plaintiffs filed a motion to remand the case to state court. (Doc. 19.) On November 13, 2024, Defendant Sentinel Insurance Company filed a cross-motion seeking leave to file an amended notice of removal. (Doc. 24.) On July 17, 2024, I issued an Opinion & Order denying Plaintiffs' motion to remand, granting Defendant's motion to amend, and directing Plaintiffs to file a sworn affidavit listing the members of FPG Clinton Acquisition, LLC ("FPG") and Fortis Property Group, LLC ("Fortis") and the state of which each member is a citizen. (Doc. 58.) On August 12 and 20, Mr. Partom Palazzo, Fortis's Chief Financial Officer, filed deficient affidavits listing the "directors and officers" of Fortis, but not its members. (Docs. 63 & 69.) On September 3, 2024, I scheduled a conference for October 16, 2024, to address the membership of each LLC. (Doc. 71.)

At this conference, I heard sufficient testimony about the membership of the entities and

the citizenship of the members to establish the citizenship of Fortis Property Group, LLC, but there were still open questions concerning the citizenship of FPG Clinton Acquisition, LLC. Specifically, Mr. Palazzo testified that Plaintiff FPG Clinton Acquisition, LLC (a Delaware LLC) is wholly owned by a separate company also called FPG Clinton Acquisition, LLC (a New York LLC), which is in turn wholly owned by FPG West 48th Street LLC. FPG West 48th Street LLC is 75% owned by Fortis Property Group, LLC, for which we had established the citizenship, and 25% owned by WWIG, LLC. Mr. Palazzo was not prepared to testify to the membership of WWIG, LLC or the citizenship of each member. I therefore ordered Plaintiffs to file various affidavits by November 1, 2024: (1) sworn statements from Louis Kestenbaum, Joel Kestenbaum, and Terrence Storey, addressing their citizenship, as well as their membership in Fortis Property Group, LLC; (2) an affidavit listing the members of FPG Clinton Acquisition, LLC and the citizenship of each member; and (3) in the event WWIG, LLC has an ownership interest in FPG Clinton Acquisition, LLC, an affidavit listing the members of WWIG, LLC and the citizenship of each member. (Doc. 79.) Plaintiffs failed to file the affidavits by the deadline, and Defendants filed a letter regarding Plaintiffs continued failure to comply with this Court's orders. (Doc. 84.) I granted Plaintiffs an extension and warned them that failure to comply would lead to dismissal of the case for failure to comply with a court order. (Doc. 86.)

Plaintiffs failed to fully comply. Plaintiffs filed timely affidavits from Louis Kestenbaum, Joel Kestenbaum, and Terrence Storey (Docs. 90-92), as well as an untimely affidavit from Joseph Klaynberg attesting that he is the President and Chairman of Wonder Works Construction Corporation and that he resides in New York, (Doc. 93). Klaynberg's affidavit had an attachment listing the members of WWIG, LLC, many of which are LLCs themselves. Klaynberg's affidavit failed to clarify the relationship between Wonder Works

Construction Corporation and WWIG, LLC, nor did it list the citizenship of each member of WWIG, LLC. Without the citizenship of each member, I cannot determine the citizenship of WWIG, LLC, and thus I cannot determine the citizenship of FPG Clinton Acquisition, LLC, a party to this action.

Plaintiffs are hereby ORDERED to file an affidavit listing the members of WWIG, LLC and the citizenship of each member by December 9, 2024. For each individual member of WWIG, LLC, the affidavit must list their domicile. For each member of WWIG, LLC that is itself an LLC, including Brody Amirian Group, LLC, Eastern R LLC, Queen Hudelina, LLC, and Brazo Property Co., LLC, the affidavit must list all the members of that LLC and their citizenship.

SO ORDERED.

Dated: November 26, 2024
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style with a large initial "V".

Vernon S. Broderick
United States District Judge